

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JAMAR OGLETREE,

Petitioner,

v.

**9:03-CV-945
(FJS/VEB)**

HAROLD GRAHAM,

Respondent.

APPEARANCES

OF COUNSEL

**JAMAR OGLETREE
00-B-2400**

Auburn Correctional Facility
P.O. Box 618
Auburn, New York 13024
Petitioner *pro se*

**OFFICE OF THE NEW YORK
STATE ATTORNEY GENERAL**
615 Erie Boulevard West, Suite 102
Syracuse, New York 13204-2455
Attorneys for Respondent

SENTA B. SIUDA, AAG

SCULLIN, Senior Judge

ORDER

In a Report and Recommendation dated August 27, 2007, Magistrate Judge Bianchini recommended that this Court deny Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Moreover, Magistrate Judge Bianchini recommended that, "[b]ecause Petitioner has failed to make a substantial showing of a denial of a constitutional right," the Court not issue a certificate of appealability pursuant to 28 U.S.C. § 2253(c)(2). *See* Dkt. No. 18. Plaintiff filed objections to these recommendations. *See* Dkt. No. 23.

Although Petitioner filed a document entitled "Objection to Report and Recommendation," he does not, in fact, assert any specific objection to Magistrate Judge Bianchini's legal conclusions. Instead, Petitioner merely states that his "arguement [sic] was and will always be the [sic] . . . we fought but the lethal wound was inflicted accidentally by the Victim herself." *See* Petitioner's Objections at 1.

The Court has reviewed the entire record in this case, including Magistrate Judge Bianchini's Report and Recommendation and Petitioner's objections thereto. Having done so, the Court concludes that Magistrate Judge Bianchini's recommendations are legally well-founded and that Petitioner's objections, such as they are, have no merit. Accordingly, the Court hereby

ORDERS that Magistrate Judge Bianchini's Report and Recommendation is **ADOPTED IN ITS ENTIRETY for the reasons stated therein**; and the Court further

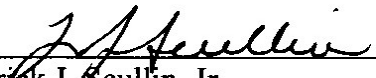
ORDERS that Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DENIED AND DISMISSED**; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in favor of Respondent and close this case; and the Court further

ORDERS that, because Petitioner has failed to make a "substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), a certificate of appealability will not issue.¹

IT IS SO ORDERED.

Dated: March 31, 2008
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge

¹ The Court advises Petitioner that he may not take an appeal to the Court of Appeals "from – (A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court . . . [u]nless a circuit justice or judge issues a certificate of appealability" 28 U.S.C. § 2253(c)(1).